

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

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MAR 11 2019	
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
BY <u>EA</u>	DEPUTY

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

v.

CR2:15-00707-PHX-SRB

ABDUL MALIK ABDUL KAREEM,

Defendant-Movant.

_____/

To the Clerk of the Court:

Enclosed is a copy of a letter to my former attorney, Daniel Drake. I have following my motion to dismiss counsel; officially asked him and Daniel Maynard to cease and desist all litigations on my behalf. I hereby petition the court to assign me a new representation and to halt all proceedings, until such time as my new legal team to go over all the case files, meet with me, and decide how to proceed.

Respectfully submitted,

Abdul Malik Abdul Kareem 3/5/2019
Abdul Malik Abdul Kareem
44126-408
FCI Florence
PO Box 6000
Florence, CO 81226

THIS DOCUMENT IS NOT IN PROPER FORM ACCORDING
TO FEDERAL AND/OR LOCAL RULES AND PRACTICES
AND IS SUBJECT TO REJECTION BY THE COURT.

REFERENCE LR Civ 5.4
(Rule Number/Section)

Daniel Drake,

I have read your response to my motion to dismiss counsel and it saddens me as well. I wish for one; you would have defended me previous to this point vigorously as you are now attempting to convince me to allow you to remain on this case. I don't know, if you are oblivious to the facts of what has transpired since you became my attorney or, if you have been a representative for the government to keep me incarcerated. Even at this juncture you, instead of finding a way to capitalize off mistakes made by both the court and Daniel Maynard in my original trial, you defend the position gained by the prosecution through those mistakes. Jackson v. Virginia, 443 US 307, 318-319 (1979).

You wrote me on 12/13/2018 concerning the redacted documents. I received your letter on 12/17/2018, you make no mention at all of "the courts desire to see parties working out discovery issues themselves." Much less "trying to seek the courts intervention to force one side to take a particular action are not looked upon favorably by judges." What you said on 12/13/2018 was that AUSA Koehler was waiting on direction from Washinton. I find it extremely ironic now that you have read my motion to dismiss counsel; "It has aged enough now to move forward." What has changed in the past 7 weeks since when we spoke shortly before christmas that didn't change in the 4 months prior to that conversation. Now magically as of 01/24/2019 you have filed the motion to compel that; I've been asking you to file since September. The irony doesn't end there though. You sent me 'Rules of Professional Conduct and referred me to the Allocation of Athority between the client and the lawyer.' Are you familiar with these rules at all, sir? They start with these exact words verbatim... "(a) Subject to paragraphs (c) and (d), a lawyer shall abide by clients decisions concerning the objections of representation and, as required ER 1.4 shall consult with clients as to the means by which they are to be pursued."

Is this what you perceive to have been going on between you and I, sir? I would strongly contend **THAT IT IS NOT IN ANY WAY FORM OR FASHION!!!** Futhermore, one must simply throughly look at my indictments; first the original "Document 1" filed 06/10/2015, then the first superceding indictment "Document 57" filed 09/01/2015, and then second superceding indictment "Document 158" filed 12/22/2015, **to clearly grasp that both you and Mr. Maynard have been either giving half-heart effort to my defense this entire time or aren't trying at all to vindicate me.**

To start with: the firearms I allegedly "on dates between January 7, 2015 and May 3, 2015, provided to Simpson and Soofi", in count one, or "knowingly

and intentionally transported in interstate commerce with the intent to commit crimes" in count two, and "15. on dates between May 2014 and May 3, 2015 provided firearms to Simpson and Soofi" in count five; are never named much less the serial numbers provided for. To say nothing of the fact that in count 2 I allegedly transport these unnamed weapons to Texas without leaving the state of Arizona.

However, the legal discrepancies of my indictments only start with these unnamed and unnumbered firearms. **My case has been tainted since 09/01/2015, when the first superceding indictment was filed!!!** The charge of 18 U.S.C. §922(g) should have never been a part of the indictment with my other charges. This was a totally separate case (for which I wanted to plead guilty to nonetheless) that I should have been separately charged, indicted, and sentenced for. Unlike the other charges which were all related and which I was subsequently wrongfully convicted of. In part because the "Poison Pill" of a completely unrelated charge (which I was trying to plead guilty to but was prevented from doing so by Mr. Maynard) strongly influenced the jury in my trial.

This was blatant "smoke and mirrors" by the government allowed by my trial attorney Mr. Maynard. The end results was me being convicted with only hearsay evidence at best, of 4 other counts of which I am not guilty. In addition to this I was also as a result of this malpractice by the government, allowed without protest by Mr. Maynard and up to this point uncontested by Mr. Drake; I was enhanced to 18 U.S.C. §922⁴(a) along with 18 U.S.C. §922(g) resulting in a 120 months sentence in count 4, which was much higher than I would have been sentenced to had I been allowed by Mr. Maynard to plead guilty to 18 U.S.C. §922(g) standing alone which was my intent.

It would be one thing if these were the only issues with my appeal. Against it saddens me to say it is not. I have asked you to file for an appeal bond. You have not. I have asked you to file for a motion to compel to force the government to produce all the evidence. you did not until I filed a motion to dismiss counsel. You told me shortly after thanksgiving that I would be receiving a brief shortly. I have not. This is just a short list of our issues. Not only have you not been trustworthy throughout the time you have been my attorney, even now you are continuing to ignore what I send you and be misleading with your responses. In my motion which you contend to have read in attachment 5 which you circle on the copy and you sent back to me are some copies of emails I sent you. These emails went without response. In these emails I complained

about Mr. Maynard's involvement, in the appeal and ask you why you feel it is necessary. You never responded. However, you contend on page 2 of your letter that you don't understand my comment "against my specific wishes."

There is also a copy of an email which I ask you to bring me information when you come see. I also included a request that the gun registrations and that the multiple statements of Ali Soofi be included in a supplemental brief.

I did not receive the information and none of the multiple times I asked about the gun registrations seems to matter at all. Both these and multiple other request for information went without response. Yet you maintain on page 3 "I do not and have not"... ignored my request for information. For the record since you and Mr. Maynard are or were previously I should say 'working together' on my appeal; If I ask you for information from the case regardless; if the case files are in your office or his, it would still fall on you to ensure that I am provided this information and definitely to respond as well.

I have enclosed the emails again, in case you wish to read them this time.

Another example of you being misleading would be your response on page 3 of you letter "5. I allowed the government to give readacted discovery." This is not correct. Touche sir it is not. Point 5 of my motion says specifically "Individually Mr. Drake has also allowed the government to give us 32 pages of redacted disclosure documents without filing a motion to compel some 5 months now. See Attachment 3."

Finally, the exact administrative remedy compliants you inquired about were included in my motion which again you contend to have read. Maybe you really didn't read the motion, or maybe you had a problem with BOP staff admitting to me AUSA Koehler called and asked them to take my paperwork.

I could continue but I must begin to spend my time and resources looking for new, competent, and honest representation; with the primary interest of defending me and not the actions of my ineffective trial counsel or the interest of the prosecution.

I refer you to the Rules of Professional Conduct, Allocation of Authority between client and lawyer section 2 which you sent me. "Conversely, the client may resolve the disagreement by discharging the lawyer. See ER 1.16(a)(3).

I hereby request that you and Daniel Maynard cease and desist any and all litigations on my behalf effective immediately. I am also requesting a copy of your billing receipts to the governemnt for my case. I will be petitioning both courts making them aware that following my motion; I have

asked you to cease and desist any and all litigations and to stay all proceedings while I am assigned new representation and my new legal team has the files and time to thoroughly digest them before we proceed.

Respectfully submitted,

Abdul Malik Abdul Kareem 3/5/2019

Abdul Malik Abdul Kareem

#44126-408

FCI Florence

PO Box 6000

Florence, CO 81226

P.S. - Enclosed is a motion you filed to have documents sealed in the case. This is despite your claims that you have not sealed documents in this case without my request. This is just one example of you being dishonest and misleading. However, you expect me to allow you to remain on my case with my life in your hands.

Also enclosed is a copy of signed handwritten note from Dan Maynard, written in front of me and given to me during our meeting on 02/14/19. Of course Dan Maynard and (this time by association) Daniel Drake continued their practice of being misleading and failed to send the follow up letter as he said he would during the meeting and in this handwritten note. This is supposed to be a direct reference to him stopping me from pleading guilty to the charge of 922(g) standing done among many other things unspecified.

Drake Law, PLC

4340 E. Indian School Rd., Ste. 21-113
Phoenix, AZ 85018 daniel.drake@azbar.org

January 12, 2018

Adbul Malik Abdul Kareem #44126-408
FCI Florence
Federal Correctional Institution
PO Box 6000
Florence, CO 81226

Mr. Kareem

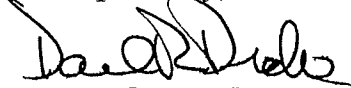
RE: 9th Cir. #17-10067, Kareem's appeal
9th Cir. #17-10118, US Appeal

Enclosed are your copies of:

- Dkt 31, Unopposed motion to seal exhibits 2, 3, and 5 to CR 432, Defendant's supplement to motion for new trial
- Dkt 32, Order granting our motion for an extension of time to file the first brief on cross-appeal, and unopposed motion to file volume 7 of the excerpts of record under seal
- Dkt. 33, Order directing submission of paper copies of the first brief on cross-appeal and the excerpts of record
- Our opening or first brief on cross-appeal
- The addendum to the brief
- ER Vol 1
- ER Vol 2
- ER Vol 3
- ER Vol 4
- ER Vol 5
- ER Vol 6

Now we await the prosecution's brief, called the second brief on cross-appeal.

Respectfully,



Daniel R Drake, Esq.
DRAKE LAW, PLC

Encls.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ABDUL MALIK ABDUL KAREEM,

Defendant-Appellant.

UNITED STATES OF AMERICA,

Plaintiff-Cross-Appellant,

v.

ABDUL MALIK ABDUL KAREEM,

Defendant-Cross-Appellee.

C.A. No. 17-10067

D.Ct. No. 2:15-cr-00707-SRB-1

C.A. No. 17-10118

D.Ct. No. 2:15-cr-00707-SRB-1

**UNOPPOSED MOTION TO
SEAL EXHIBITS 2, 3, AND 5 TO
CR 432, DEFENDANT'S
SUPPLEMENT TO MOTION
FOR NEW TRIAL**

Abdul Malik Abdul Kareem, defendant-appellant and cross-appellee, moves this Court pursuant to Rule 27, Fed. R. App. P., and Interim 9th Cir. R. 27-13(e), to seal Exhibits 2, 3, and 5 to Defendant's Supplement to Motion for New Trial, filed in the district court as Dkt. No. 431, and with this Court in Volume 7 of the Excerpts of Record.

These exhibits contain electronic communications involving or referencing an undercover FBI agent. They are covered by a protective order and an order of the district court, Dkt. 447, ordering the items sealed.

Counsel has spoken with Assistant U.S. Attorney Joseph Koehler regarding the exhibits and this motion. The Government does not oppose the sealing of these exhibits, as were the documents part of the public record, individuals might access those documents and attempt to do harm to the undercover FBI agent or others.

Mr. Abdul Kareem is serving his sentence at FCI Florence in Florence, Colorado.

No prior requests have been made for this relief.

Respectfully submitted this 22nd day of December 2017.

s/Daniel R. Drake

DANIEL D. MAYNARD
Maynard, Cronin, Erickson, Curran &
Sparks, PLC
Ste. 1800
3200 N. Central Ave
Phoenix, AZ 85012
Telephone 602-279-8500
Attorneys for Appellant and Cross-
Appellee

DANIEL R. DRAKE
Drake Law, PLC
4340 E. Indian School Rd.
Ste. 21-113
Phoenix, AZ 85018
Telephone: (602) 881-5341

Attorneys for Appellant and Cross-
Appellee

9th Circuit Case Number(s) 17-10067, 17-10118

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on December 22, 2017.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature s/Daniel R Drake

When I represented Abdul Kareem I told him not to plead guilty to all of the charges in the second superseding indictment and I advised him to go to trial as soon as possible. There were numerous decisions I made in defending the case that I will set forth in a letter to Abdul Kareem in the next week that he may want to use if he loses his appeal in a habeas corpus petition.

Dan Maynard

2-19-19

TRULINCS 44126408 - ABDUL KAREEM, ABDUL MALIK - Unit: FLF-M-B

FROM: 44126408
TO: Drake, Daniel
SUBJECT: Appeal Issue
DATE: 05/31/2018 05:17:37 PM

I would like to supplement our brief to include the gun registrations, furthermore, I would like to raise issues related to the Interview of Ali Hamid Soofi - "Details of Interview" (5.4.2015) page 2 of 6, in which Ali Soofi states -- "Simpson purchased his AK-47 off of Craig's list some time in 2014 and Nadir purchased his, also off Craig's list, about 2 or 3 months later. The each paid \$700.00 "(Simpson provided Nadir with the \$700.00 to purchase Nadir's AK-47)" However, Ali Soofi contradicts himself on the interview dated (9.25.2015) page 4 of 8, where he states -- "utilizing Craig's's list, Abdul Malik purchased Ibrahim's AK-47 for him and also purchased Nadir's AK..." This information is relevant in connection with the "letter/car title," left by Simpson, by which, he states that the aforementioned served as payment/reimbursement for the money given to pay him back for what was needed. Furthermore, I would like to address information related to the government's use of the 2012 computer, by which the prosecution was able to obtain the jihadist propaganda used to convict me. They said they would not use the computer but did. Moreover, Simpson had previously stated that, "he was responsible for the downloads on my computer. (See Simpson Interview) -(1.15.2014) page 1 of 2 Doc.#000026. Additionally I would like to know what is your purpose for using Daniel Mannard to assist you on my appeal? Why do you believe that it is helpful or necessary to have him on my case because I believe he was ineffective in presenting critical issues on my behalf and thus was ineffective. I still have not received the stuff I asked for from him. This is approximately 6 times which I have requested information from him and did not receive it. Please look at the case Scott v. United States. 2018 BL 182917, 11th Cir., 15-1137716-11950, 5/23/18. Thank you for your assistance in this matter.

TRULINCS 44126408 - ABDUL KAREEM, ABDUL MALIK - Unit: FLF-M-B

FROM: 44126408
TO: Drake, Daniel
SUBJECT: RE: RE: Hello
DATE: 05/02/2018 06:45:20 PM

Responding on May 1, 2018 @ 1840 hrs.

I'm responding to the email you sent. I'll see you on may 14-15, 2018. I have asked for all the gun reistrations since September 12 2017. I have no recieved them. Can you send or bring these documents to me.

Also, it has been more than a year that I have asked for all the trial exhibits; copies of all the CDs, hard drives, hard copies, hearing transcripts, and all voice recording statements from the whole trial(that means from February 16, 2017 to March 17, 2016). Here are the numbers that I want from the exhibit list:

43,44,45,46,
88,89,
90,94,95,96,97,98,99,
100,102,103,
113,116,
138,139,
140,141,142,
153,156,157,
164,
173,174,175,176,177,178,179,
180,187,188,
194,197,198,199,
200,205,206,207,
210,211,212,213,214,
259,
260,264,265,266,267,268,269,
270,271,272,273,274,275,277,278,
281,282,
359,
360,361,
374,375,
390,
464,
471,
483,485,
495,
604,605,606,607,608,609,610,
611,612

This should be easier for you to read so you do not get mix up or miss a file. I'll be expecting them.

Again, I need for you to send or bring these documents and items to me. Which reminds me, I still have no recieved my contact informations out of my Max West(personal and business) cellphone. So DO NOT forget them when you come.

-----Drake, Daniel on 5/1/2018 6:21 AM wrote:

>

Got your email and letter dated 4/17.

Maynard and I are organizing for a visit. Dates haven't been confirmed, but we are looking at May 14-15. I'll advise when I know more. That will provide time to work things into the brief.

We can and will discuss things when we get there.

Drake

TRULINCS 44126408 - ABDUL KAREEM, ABDUL MALIK - Unit: FLF-M-B

ABDUL MALIK ABDUL KAREEM on 4/21/2018 10:06:17 AM wrote
I just wanted to say hello, and give an invatation. Inviting you to email.

This is solid evidence of Daniel Drake and Daniel Maynard being intentionally misleading. Enclosed is an unsigned court order presented to me as if it was valid. I met with both attorneys, 02/19/2019, and both of them spoke on this order as if it had been granted. Document 525-5 file 01/24/2019.

However this order is not signed and therefore invalid. As a result the "deadline" passed without disclosure.

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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF ARIZONA**

8 United States of America,
9
10 Plaintiff,

2:15-cr-00707-SRB

ORDER

11 v.

12 Abdul Malik Abdul Kareem,
13 Defendant.

14 Upon motion of defendant Abdul Malik Abdul Kareem to compel government
15 disclosure (Doc. 525) and good cause appearing,

16 **IT IS ORDERED** granting the motion.

17 **IT IS FURTHER ORDERED** that the government should produce under seal
18 the information requested by the defense no later than February 24, 2019.
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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

United States of America,
Plaintiff,

2:15-cr-00707-SRB

v.

ORDER

Abdul Malik Abdul Kareem,
Defendant.

Upon motion of defendant Abdul Malik Abdul Kareem to preclude an *ex parte* government submission (Doc. 522) and good cause appearing,

IT IS ORDERED granting the motion.

IT IS FURTHER ORDERED that, should the government give notice that it wishes to submit material to the Court pursuant to the Classified Information Procedures Act for a determination that it need not be disclosed or may be disclosed in redacted form, the defense will be permitted to make an oral, *in camera ex parte* showing regarding the relevance and materiality of the information to an effective defense.

IT IS FURTHER ORDERED that, should the government not give such a notice, the motion is denied as moot.